

Louis Flores  
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16 May 2017

Honorable John Koeltl, United States District Judge,  
United States District Court - Southern District of New York,  
500 Pearl Street,  
New York, New York 10007-1312.

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S.D. OF N.Y.

Dear Hon. Judge Koeltl :

**Re : Louis Flores v. United States Department of Justice  
No. 17-CV-0036 (Koeltl, J.)**

I am *pro se* Plaintiff in the above-captioned case.

At the Initial Conference on 13 April 2017, Your Honour set deadlines by which Defendant was to follow regarding the making of its FOIA Response. By 27 April 2017, Defendant was ordered to make its first production of documents. To date, Defendant has not fully produced these documents.

On 27 April 2017, **Darian Hodge**, an assistant to Counsel for Defendant, **Rebecca Tinio**, sent to me a few e-mails containing memory-heavy attachments that immediately crashed my e-mail Inbox. After I cleared out enough memory, I wrote back, informing Defendant that the attachments were too large to be transmitted by e-mail, especially to my work e-mail account. I offered two work-arounds to Defendant : First, I asked for the e-mails to be redirected to a special Google e-mail account I use for data work ; and Second, I proposed that the records be dropped into a Google Drive account folder I set up for this specific purpose. Defendant promised to resend the e-mails to the special Google account, but not every e-mail was resent. Defendant objected to using a Google Drive account folder to use for transferring the documents that constituted the first production.

Defendant also said that a FEDEX package, containing the first production, was sent to me at my address, but I never received it. When I asked that the first production be sent to me by regular U.S. mail, Defendant sent a CD-ROM with instructions to use a specific password. I received the CD-ROM on Friday, 12 May 2017 – *over two weeks after the Court's deadline*. My work computer is a Macbook Pro, and it does not have a CD-ROM drive, and I had to use another Macbook Pro to try to read the CD-ROM. When I attempted to open the CD-ROM, I was notified that the CD-ROM could only be opened on a Windows computer. When I attempted to use a friend's Windows computer to open the CD-ROM, the password I was provided by Counsel for Defendant did not work.

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United States District Court - Southern District of New York  
16 May 2017  
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From e-mail exchanges with Counsel for Defendant, I was informed that one of e-mails that Defendant allegedly sent to me contained records of the speeches of former U.S. Attorney Preet Bharara, but I never received such e-mail, despite making repeated requests for all of the e-mails to be resent to me in their entirety. Documents about the speeches of the former U.S. Attorney are exactly what I have been waiting for since I made the FOIA Request, but Counsel for Defendant has intentionally denied me these records. Defendant's actions are intentionally made to frustrate Plaintiff. Because Defendant never produced the responsive records by e-mail, because Defendant rejected the use of the Google Drive account folder to transfer the documents with ease, and because Defendant has yet to produce a CD-ROM that can be opened and reviewed, Defendant is not in compliance with the deadline set by the Court at the Initial Conference.

As I mentioned during the Initial Conference, the only reason litigation was warranted in this case – as well as in any FOIA case against Defendant – is because of Defendant's refusal to comply with FOIA. Besides the actions described in the Complaint, the withholding of responsive records, and the production of an unopenable CD-ROM, Defendant also produced months-old correspondence at the Initial Conference that I had never before been provided with, until the day before the Initial Conference – a fact I pointed out at the Initial Conference. As I mentioned during the Initial Conference, Your Honour is the only person who can keep Defendant in check.

If the Court really believes, as Your Honour said during the Initial Conference, that some laws, like FOIA, which may embarrass Defendant, need to be weighed against the reputation that needs to be maintained for Defendant, then what does the rule of law mean to this Court? What do deadlines set by Your Honour mean, if a party can deliberately violate the deadlines set by the Court? I remind the Court that the *prayer for relief* in the Complaint included a request that the Court issue an order, enjoining Defendant from flagrantly violating FOIA. (Dkt. No. 2 at ¶58(g)). I did not think I needed to have included a prayer for relief, asking the Court to issue orders, compelling Defendant to adhere to the orders and deadlines set by this Court. Even if I had, what action would this Court take against a party violating civil procedure and the orders and deadlines set by this Court?

If the Court will not hold Defendant to account for the misconduct of Counsel for the Defendant due to the Court's concern for maintaining the reputation of the U.S. Attorney's Office, Plaintiff requests that the Court extend the deadlines in the Order issued following the Initial Conference by however many weeks it takes for Defendant to fully deliver to me its first production of documents and records.

Respectfully submitted,



Louis Flores

cc : Rebecca Tinio, Assistant U.S. Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LOUIS FLORES,

*Plaintiff,*

v.

UNITED STATES DEPARTMENT OF  
JUSTICE,

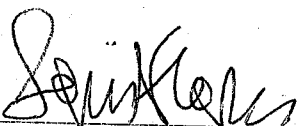
*Defendant.*

17-CV-0036 (JK)

**AFFIRMATION  
OF SERVICE**

I, **LOUIS FLORES**, declare under penalty of perjury that I have served a copy of the attached **PLAINTIFF'S LETTER REGARDING DEFENDANT'S MISCONDUCT** upon **REBECCA TINIO** by **FIRST CLASS U.S. MAIL** to : c/o United States Attorney's Office, Southern District of New York, 86 Chambers Street, 3rd Floor, New York, New York 10007.

Dated : Jackson Heights, New York  
16 May 2017

  
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